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NORTH BAY CREDIT UNION;
CHRIS CALL

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

19 AUSTIN CAPITAL TRUST COMPANY
LLC.

CASE NO. 3:23-cv-00444-LRH-CSD

21 Plaintiff,

JOINT MOTION AND ORDER TO

21

JOINT MOTION AND ORDER TO EXTEND TIME AND TO MODIFY DISCOVERY PLAN AND SCHEDULING ORDER

23 NORTH BAY CREDIT UNION; CHRIS
24 CALL; CAROLE McCORMICK; DOES 1
through X, inclusive; and ROE BUSINESS
ENTITIES I through X, inclusive.

(FIRST REQUEST)

Defendants.

1 Pursuant to Local Rule IA 6-1, Local Rule IA 6-2, and Local Rule 26-3, Plaintiff Austin
 2 Capital Trust Company LLC (“Plaintiff”) and Defendants North Bay Credit Union (“NBCU”),
 3 Chris Call, and Carole McCormick (collectively “Defendants”), by and through their
 4 undersigned counsel, hereby submit this Joint Motion and Order to Extend Time and to Modify
 5 Discovery Plan and Scheduling Order (First Request). This is the first request for an extension of
 6 time concerning this case’s discovery deadlines, and there is good cause for this request;
 7 therefore, the parties respectfully request to extend the discovery deadlines specified below by
 8 thirty (30) days.

9 On November 8, 2023, the parties submitted their proposed Discovery Plan and
 10 Scheduling Order [Dkt. #14], which explained why more time was needed for discovery than the
 11 presumptive 180 day period from the date of first defendant’s appearance. Defendants first
 12 appeared by filing a Motion to Dismiss on October 2, 2023. On October 16, 2023, Plaintiff filed
 13 its First Amended Complaint. The parties stipulated to extend the deadline for Defendants to
 14 respond to the First Amended Complaint to November 13, 2023. On November 9, 2023, the
 15 Court submitted its Order to the parties’ proposed Discovery Plan and Scheduling Order [Dkt.
 16 #15].

17 **A. Statement specifying the discovery completed.**

18 The parties have exchanged initial disclosures.

19 **B. Statement specifying the discovery that remains to be completed.**

20 Written discovery, depositions, and expert discovery.

21 **C. The reasons why the deadline was not satisfied or the remaining discovery
 22 was not completed within the time limits set by the discovery plan.**

23 On November 13, 2023, Defendants filed a motion to dismiss Plaintiff’s First Amended
 24 Complaint. On December 11, 2023, Plaintiff submitted its response, and on December 29, 2023,
 25 Defendants filed their reply. The parties are still awaiting this Court’s ruling on the motion to
 26 dismiss.¹

27
 28 ¹ One of the key arguments raised in the motion pertains to the Court’s lack of jurisdiction over NBCU. It is
 important to note that Defendants’ agreement to jointly request a modification of the Discovery Plan and Scheduling

1 On April 2, 2024, this Court filed its Reassignment Order [Dkt. #36] stating that the
 2 presiding District Judges determined that the present action and NBCU v. MRB Direct, Inc., et
 3 al., (Case No. 2:24-cv-00212-CDS-DJA) (the “MRB Direct Case”)² are related and that there is
 4 good cause to reassign the cases to one District Judge, Larry R. Hicks and Magistrate Judge,
 5 Craig S. Denney, pursuant to Local Rule 42-1.

6 The Discovery Plan and Scheduling Order [Dkt. #15] filed on November 9, 2023, has not
 7 been vacated or modified.³ This case is pending the Court’s decision on the motion to dismiss.
 8 The MRB Direct Case has been transferred to this Court and recently reassigned. Thus, the
 9 parties are proposing an extension of the deadlines to allow for a simultaneous track regarding
 10 discovery and scheduling in both cases. The parties will be submitting a proposed scheduling
 11 order for both this case and the MRB Direct Case on or before April 19, 2024. Given the
 12 substantial overlap between the claims in this case and the MRB Direct Case, the discovery in
 13 each will overlap significantly. This request is aimed at ensuring that the cases progress in a
 14 coordinated manner, thereby facilitating a more efficient and consistent management of the
 15 litigation process.

16 Pursuant to the Discovery Plan and Scheduling Order [Dkt. #15] filed on November 9,
 17 2023, the initial expert disclosures deadline is April 30, 2024, and the deadline to file motions to
 18 amend pleadings and/or add parties is May 1, 2024.

19 **D. Proposed schedule for completing all remaining discovery.**

20 Defendants request an extension of time at this time and to modify the Discovery Plan
 21 and Scheduling Order with respect to the initial expert disclosures and to amend pleadings and/or
 22 add parties deadlines by thirty (30) days. The new proposed deadline for initial expert disclosure
 23 is May 30, 2024. The new proposed deadline to file motions to amend pleadings and/or add

24 Order does not constitute a waiver of any of Defendants’ arguments or objections in the motion, including, but not
 25 limited to NBCU’s arguments and objections regarding jurisdiction.

26 ² The Court has not yet set a deadline for the defendants in the MRB Direct case to respond to the complaint in that
 27 action.

28 ³ In the MRB Direct Case, the parties will meet and confer to discuss agreeing to a discovery plan and scheduling
 29 order. The parties anticipate filing a joint motion to extend time and to modify Scheduling Order in this action to
 30 ensure that the parties in both cases have adequate time to prepare and respond to discovery requests.

1 parties is May 31, 2024. As noted above, the parties will be submitting a proposed scheduling
2 order for both this case and the MRB Direct Case on or before April 19, 2024 with additional
3 revised deadlines to apply to both this case and the MRB Direct Case,

4 The joint motion is brought in good faith and not for purposes of delay. Upon the Court
5 approving this Joint Motion and Order, it shall serve as the First Amended Discovery Plan and
6 Scheduling Order applicable and controlling in this case.

7 Respectfully submitted,

8 Dated: April 9, 2024

GORDON REES SCULLY MANSUKHANI

9
10 By: /s/ Sean Flynn
11 Sean Flynn (SBN 15408)
12 Tomiko Ortiz (SBN 16599)
13 *Attorneys for Defendants*
14 NORTH BAY CREDIT UNION and
15 CHRIS CALL

16 Dated: April 9, 2024

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17 By: /s/ Mark J. Connot
18 Mark J. Connot (SBN 10010)
19 Kevin M. Sutehall (SBN 9437)
20 *Attorneys for Plaintiff*
21 AUSTIN CAPITAL TRUST
22 COMPANY LLC

23 Dated: April 9, 2024

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24 By: /s/ Samuel R. Mirkovich
25 Philip R. Erwin (SBN 11563)
26 Samuel R. Mirkovich (SBN 11662)
27 Nicholas S. Hagenkord (SBN 15927)
28 *Attorneys for Defendant*
CAROLE McCORMICK

IT IS SO ORDERED:


U.S. MAGISTRATE JUDGE

DATED: April 10, 2024